

### **AMENDMENTS TO THE DRAWINGS**

The attached "Replacement Sheets" of drawings include changes to Figures 17-19. The attached "Replacement Sheets," which include Figures 17-19, replace the original sheets including Figures 17-19.

Attachment: Replacement Sheets

### **REMARKS**

Claims 1-18 are now pending in the application. No claims have been added or cancelled. Claims 1-2, 4-9, 11, and 14-18 have been amended. Support for the foregoing amendment can be found throughout the specification, drawings, and claims as originally filed. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **DRAWINGS**

The drawings stand objected to for certain informalities. Applicants have attached revised drawings for the Examiner's approval. In the "Replacement Sheets," the legend "Prior Art" has been included for Figures 17-19. Appropriate correction having been made, the drawings should now be in condition for acceptance.

### **SPECIFICATION**

Applicants have amended the specification to replace the title from the WIPO translation of the published PCT application with the title as originally filed with the application.

### **CLAIM OBJECTIONS**

Claims 2, 7, 9, 11, 16, and 18 are objected to for certain informalities regarding the use of parenthesis. Claims 1, 2, 5-8, 10, 11, and 14-17 are objected to for certain informalities regarding the term "STA." Appropriate correction having been made according to the Examiner's suggestion, the claim objections should be withdrawn.

### **REJECTION UNDER 35 U.S.C. § 112**

Claims 1, 2, 10, and 11 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicant regards as the invention. This rejection is respectfully traversed.

Applicant has amended the claims to address the Examiner's rejection. Therefore, reconsideration and withdrawal of the rejection are respectfully requested.

### **REJECTION UNDER 35 U.S.C. § 103**

Claims 1 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Applicants Admitted Prior Art ("AAPA").

Claims 2 and 11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over AAPA in view of Odman (U.S. Pat. No. 2003/0210710 A1) ("Odman") and Brockmann (U.S. Pat. No. 2003/0133469 A1) ("Brockman").

Claims 3-7 and 14-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over AAPA in view of Kazumasa (JP 2003-110575) ("Kazumasa").

Claims 8 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over AAPA, Odman, and Brockman in further view of Kazumasa. These rejections are respectfully traversed.

Applicant submits that the subject matter described at page 5, line 1, to page 6, line 19, of the Specification as originally filed has never been admitted as prior art by Applicant. Subject matter disclosed under the heading of "Background Art" in the Specification is not necessarily prior art to the claimed invention. The above-mentioned

portion of the Specification merely intends to explain the problems to be solved by the inventions of claims 2 and 11. Namely, the subject matter described at page 5, lines 1-18, corresponds to claims 1 and 10. Claims 2 and 11 solve the problems of claims 1 and 10, described at page 5, line 19, to page 16, line 19, of the Specification.

In view of the foregoing, Applicant submits that the Examiner fails to cite prior art against the claims. Therefore, reconsideration and withdrawal of the rejections to claims 1-18 are respectfully requested.

Further, Applicant has amended claims 2 and 6 for clarification. Claim 2 recites “each time simultaneously commencing the transmissions of said selected data packets by the MIMO.”

Assuming arguendo that the subject matter disclosed under the heading of “Background Art” can be considered as prior art (the alleged AAPA), Applicant submits that the alleged AAPA does not teach the above limitation.

The background of the subject application at p. 5, lns. 13-18, states:

a plurality of data packets having the same packet time lengths can be selected simultaneously. When transmissions of a plurality of data packets having the same packet time lengths are commenced simultaneously, the transmissions of them are completed simultaneously. Therefore, acknowledge packets for the respective data packets can be received approximately at the same time and an effect of leakage power can be avoided.

...

Nevertheless, since transmission times for the respective ACK packets are different, a difference occurs in a time when the receptions of the respective ACK packets are completed. At this moment, right in the middle of reception of ACK (2) through the radio channel CH2, if data packets are transmitted from the radio channel CH1 where the ACK reception is completed previously, it is likely that the reception of ACK (2) through the radio channel CH2 fails.

In other words, although data packets may be transmitted simultaneously at the beginning, the system discussed in the background will not be able to transmit new data packets simultaneously via the plurality of radio channels after the acknowledge packets at different transmission rates are transmitted.

Further, claim 2 calls for “storing, in each of the selected data packets, information of acknowledgment packet transmission time ..., wherein the acknowledgment packet transmission time indicates when the receiver terminal of the selected data packet is allowed to transmit the acknowledgment packet.” The Examiner acknowledges that the alleged AAPA does not teach the above limitation, but asserts that one of ordinary skill in the art would be motivated to modify the system of the alleged AAPA based on the teaching of Odman and Brockman to arrive at the above features. Applicant respectfully traverses the Examiner’s assertion.

Odman appears to disclose an acknowledgement-time offset (i.e., a delay), rather than the time when the acknowledgment packet is actually transmitted.

Claim 4 calls for “the plurality of data packets whose packet time lengths are equal to each other are generated by dividing a unit of data at a transmission buffer.” The background of the subject application (the alleged AAPA), at p. 4, ln. 12, states that “a plurality of data packets having the same sizes are acquired”, rather than same packet time lengths.

Further, the Examiner takes official notice that utilizing dummy packets is well known in the art. Applicant submits that MPEP requires that “[o]fficial notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of

instant and unquestionable demonstration as being well-known.” MPEP, § 2144.03.A.

Thus, Applicant respectfully requests that the Examiner provide unquestionable demonstration that the above features are well-known or cite prior art references disclosing the above features.

Claim 6 recites “wherein packet time lengths of the acknowledgement packets are substantially equal to each other.”

Applicant submits that even if the alleged prior art discloses utilizing different transmission rates and dummy packets, the prior art does not teach applying those techniques to acknowledgment packets in order to obtain equal packet time lengths.

Therefore, Applicant submits that claims 2, 4, and 6 define over the art cited by the Examiner for the above reasons.

#### **ALLOWABLE SUBJECT MATTER**

The Examiner states that claims 9 and 18 would be allowable if rewritten in independent form.

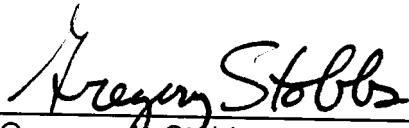
Applicant elects to defer rewriting the allowable claims until the Examiner has considered the amendments and arguments presented herein.

## CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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